

The examiner's restriction requirement does not conform to MPEP 803.04 because it requires selection of one DNA sequence and its protein sequence.

The DNA sequences in the examples in MPEP 803.04 are not limited to ESTs. The first example shows this: "(A)an isolated and purified DNA fragment comprising DNA having at least 95% identity to a DNA fragment comprising DNA having at least 95% identity to a DNA sequence selected from SEQ ID NOs 1-1000" is not limited to ESTs.

In some **exceptional** cases, the complex nature of the claimed material, for example a protein amino acid sequence reciting three dimensional folds, may necessitate that the reasonable number of sequences to be selected be less than ten. MPEP 803.04. However, this is not such an exceptional case. These sequences are nucleotide and protein sequences which relate to enzymes.

In view of the foregoing, applicants believe withdrawal of the restriction requirement is in order.

Please charge any shortage in fees due in connection with the filing of this paper, including Extension of Time fees to Deposit Account No. 11-0345. Please credit any excess fees to such deposit account.

Respectfully submitted,

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